

§ 1.05–60

(c) The public will usually be given at least 60 days from the date of publication in which to submit comments or notice of intent to submit comments.

(d) If no adverse comment or notice of intent to submit an adverse comment is received within the specified period, the Coast Guard will publish a notice in the FEDERAL REGISTER to confirm that the rule will go into effect as scheduled.

(e) If the Coast Guard receives a written adverse comment or a written notice of intent to submit an adverse comment, the Coast Guard will publish a notice in the final rule section of the FEDERAL REGISTER to announce withdrawal of the direct final rule. If an adverse comment clearly applies to only part of a rule, and it is possible to remove that part without affecting the remaining portions, the Coast Guard may adopt as final those parts of the rule on which no adverse comment was received. Any part of a rule that is the subject of an adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of an adverse comment, a separate Notice of Proposed Rulemaking (NPRM) will be published unless an exception to the Administrative Procedure Act requirements for notice and comment applies.

(f) A comment is considered adverse if the comment explains why the rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

[CGD 94–105, 60 FR 49224, Sept. 22, 1995]

§ 1.05–60 Negotiated rulemaking.

(a) The Coast Guard may establish a negotiated rulemaking committee under the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) when it is in the public interest.

(b) Generally, the Coast Guard will consider negotiated rulemaking when:

(1) There is a need for a rule;

(2) There are a limited number of representatives for identifiable parties affected by the rule;

(3) There is a reasonable chance that balanced representation can be reached in the negotiated rulemaking com-

mittee and that the committee members will negotiate in good faith;

(4) There is a likelihood of a committee consensus in a fixed time period;

(5) The negotiated rulemaking process will not unreasonably delay the rule;

(6) The Coast Guard has resources to do negotiated rulemaking; and

(7) The Coast Guard can use the consensus of the committee in formulating the NPRM and final rule.

Subpart 1.07—Enforcement; Civil and Criminal Penalty Proceedings

AUTHORITY: 14 U.S.C. 633; Sec. 6079(d), Pub. L. 100–690, 102 Stat. 4181; 49 CFR 1.46.

SOURCE: CGD 78–82, 43 FR 54186, Nov. 20, 1978, unless otherwise noted.

§ 1.07–1 Purpose.

This part describes procedures for enforcement and administration of all statutory penalty provisions that the Coast Guard is authorized to enforce.

§ 1.07–5 Definitions.

(a) The term *District Commander*, when used in this subpart, means the District Commander, or any person under the District Commander's command, delegated to carry out the provisions of § 1.07–10(b).

(b) The term *Hearing Officer* means a Coast Guard officer or employee who has been delegated the authority to assess civil penalties.

(c) The term *issuing officer* means any qualified Coast Guard commissioned, warrant, or petty officer.

(d) The term *Notice of Violation* means a notification of violation and preliminary assessment of penalty, given to a party, in accordance with § 1.07–11.

(e) The term *party* means the person alleged to have violated a statute or regulation to which a civil penalty applies and includes an individual or public or private corporation, partnership or other association, or a governmental entity.

[CGD 93–079, 59 FR 16560, Apr. 7, 1994]

§ 1.07–10 Reporting and investigation.

(a) Any person may report an apparent violation of any law, regulation, or